

EXHIBIT A

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Michelle Simha, as
Trustee for the
Next-of-Kin of Noah
Leopold,

Civil File No.
Plaintiff, 24-CV-01097-JRT-DTS

vs.

Mayo Clinic,

Defendant.

DEPOSITION OF ANDREW ROSENBAUM

Volume I, Pages 1 - 118

August 13, 2024

(The following is the deposition of Andrew Rosenbaum, taken pursuant to Notice of Taking Deposition, via video, at Mayo Clinic, Legal Department, 100 2nd Street SW, Rochester, Minnesota, commencing at approximately 10:28 a.m., August 13, 2024.)

1 APPEARANCES:

2 On Behalf of the Plaintiff:

3 Brandon Thompson
4 Bibeane Metsch-Garcia (via Zoom)
5 CIRESI CONLIN LLP
6 225 South Sixth Street
7 Suite 4600
8 Minneapolis, Minnesota 55402

9 On Behalf of the Defendant:

10 Andrew Brantingham
11 DORSEY & WHITNEY LLP
12 50 South Sixth Street
13 Suite 1500
14 Minneapolis, Minnesota 55402

15 ALSO PRESENT:

16 Ron Huber, Videographer
17 Anna C. Messerly, Ciresi Conlin
18 Sheri Peterson, Mayo Clinic
19 Maggie Palmisano, Ciresi Conlin (via Zoom)
20 Michelle Simha (via Zoom)
21 Norman Leopold (via Zoom)
22 Karen Leopold (via Zoom)
23 Jenna Shulman (via Zoom)

24

25

	EXAMINATION INDEX		
	WITNESS	EXAMINED BY	PAGE
2	Andrew Rosenbaum	Mr. Thompson	4
4		Mr. Brantingham	78
5		Mr. Thompson	85
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			

1 part of the recipient informed consent process
2 for transplantation." What does that mean to
3 you?

4 MR. BRANTINGHAM: Are you familiar with
5 that standard?

6 THE WITNESS: No.

7 Q. I read you a statement.

8 A. Yes.

9 Q. Tell me what that statement means to
10 you.

11 A. It means that minimal information
12 should be provided to the recipient about the
13 donor except that which is necessary for
14 informed consent.

15 Q. And I think we talked about how in the
16 state of Minnesota what is necessary for
17 informed consent is anything that the patient
18 would find significant. And you told me that
19 that's what you strive to do; right?

20 A. Yes.

21 MR. BRANTINGHAM: Hang on. Just one
22 second. That misrepresents that law as well.

23 MR. THOMPSON: No, it doesn't.

24 MR. BRANTINGHAM: Yeah, it does.

25 MR. THOMPSON: Okay.

1 MR. BRANTINGHAM: So just --
2 We need to be clear. This is a fact
3 witness. You don't need to take Mr. Thompson's
4 representations to you about the law. Just
5 answer facts.

6 MR. THOMPSON: Okay.

7 MR. BRANTINGHAM: That's it.

8 MR. THOMPSON: So now we're -- now
9 we're getting back into the coaching thing
10 again. Don't coach him on how to answer my
11 questions.

12 MR. BRANTINGHAM: You can't mislead
13 witnesses, Brandon, to get --

14 MR. THOMPSON: I'm not misleading the
15 witness.

16 MR. BRANTINGHAM: -- to get the
17 testimony that you want. It doesn't work that
18 way. And I --

19 MR. THOMPSON: Are you finished?

20 MR. BRANTINGHAM: I will object when
21 you misrepresent the law or the facts to the
22 witness in order to get testimony that you want,
23 and that's my objection.

24 MR. THOMPSON: And -- and you are
25 within your rights to object. What you're not

1 within your rights to do is turn to the witness
2 and instruct him on what he need or need not do
3 in answering my questions, and you know that.
4 That's called coaching. That's called coaching
5 a witness. So now you're continuing to do it on
6 the record in addition to doing it off the
7 record, and I've made my record on it before and
8 I'm going to do it again. Knock it off. You
9 can't coach a witness on how to answer a
10 question, and you know that. If you have an
11 objection, make your objection, period. You
12 know that's what the rules require.

13 Q. Now you told me before that what you
14 strive to do in providing informed consent is
15 provide all of the information that a patient
16 would find significant. Is that still your
17 testimony now?

18 A. Yes.

19 Q. Okay. That is your understanding of
20 what informed consent requires; right?

21 A. Yes.

22 Q. So you know that what OPTN says is if
23 you've got to tell somebody something in order
24 to comply with your informed-consent obligation,
25 you're allowed to tell them; right?